



MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
1.240

CHAPTER General Department	SUBCHAPTER Regulations	EFFECTIVE DATE 11-21-07	NUMBER OF PAGES 3	PAGE NUMBER 1 of 3
SUBJECT Exceptions Committee		AUTHORITY Section 630.656 and 630.170 RSMo	HISTORY See below	
PERSON RESPONSIBLE Deputy Director			SUNSET DATE 7-1-11	

Purpose: Prescribes responsibilities and procedures of the Exceptions Committee.

Application: Applies to the entire department.

(1) The Exceptions Committee is responsible for reviewing all requests for a waiver or exception of an administrative rule or other requirement as authorized by the department director pursuant to sections 630.170 and 630.656, RSMo.

(A) These are open meetings in accordance with chapter 610 RSMo.

(B) The committee may close the meeting as authorized under sections 610.021 and 610.022, RSMo.

(2) Definitions. Terms are defined as follows:

(A) Applicant: Any provider or individual who applies to the Exceptions Committee for an exception.

(B) Disqualifying incident: A crime that under section 630.170, RSMo, and 9 CSR 10-5.190 results in a person being disqualified from employment, or one (1) or more administrative findings of abuse, neglect or misuse of funds/property that under 9 CSR 10-5.200 leads to a person being listed on the department of mental health disqualification registry;

(C) Exception: A decision by the department not to enforce an administrative rule under the individual circumstances described in the request for an exception and the conditions described in the approval. None of the following are subject matter of an exception:

1. A contention that the rule is not valid;
2. A contention that the provider is in fact in compliance with the rule;

and

3. A request for an interpretation of a rule.

(3) Exceptions Committee Membership. The committee shall be composed of the following members:

(A) At least two (2) but not more than three (3) representatives from each division, appointed by the division director;

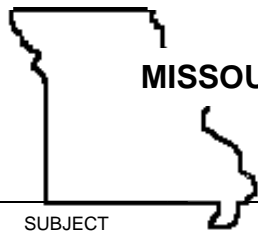
(B) A staff attorney from the Office of General Counsel, who serves as the coordinator of the committee;

(C) The director of licensure and certification;

(D) Other department representative(s) appointed by the department director as voting participant(s); and

(E) Other persons invited by the committee on an ad hoc basis in a non-voting capacity.

(F) Members of the committee listed in (A) and (D) shall have voting rights. Members shall not send proxies to committee meetings to vote on their behalf.



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(4) Quorum. A quorum is required at each meeting. A quorum shall consist of a majority of the voting members appointed and must include at least one member from each division.

(5) Responsibilities of the Exceptions Committee Membership.

(A) Prior to each meeting, members shall gather information regarding requests relating to their divisions or offices so as to be well-informed regarding the nature of the request.

(B) The coordinator is responsible for the following:

1. Circulating requests for exceptions as they arrive at the department;
2. Maintaining a system for tracking requests;
3. Organizing each meeting;
4. Providing public notice of the date and time of each meeting;
5. Preparing for each request a summary of issues involved, including the relevant regulations, policies, and precedents;
6. Assuring that a quorum is present at each meeting;
7. Preparing minutes of each meeting;
8. Maintaining a log of the committee's decisions;
9. Writing and sending letters announcing the committee's decisions within twenty (20) days of the decision;
10. Soliciting from the recipients of exceptions the documentation that is required under the conditions of the exception; and
11. Advising the department director when an issue, such as a financial or information system technology rule, is to be presented for an exception so that the department director can appoint a member from the respective office in support of (3)(D).

(6) Decision-making Process.

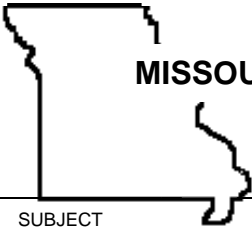
(A) Each member of the committee, as listed in (3)(A) and (3)(D), shall have one vote. For those requests that affect a particular division, a consensus must be reached between the members of the affected division when voting. If there is a split vote between the members of the affected division, then the request shall be tabled and forwarded to the director of the affected division for a final decision. In the event that the members of the affected division do not agree with the majority vote, then the request shall be tabled and forwarded to the director of the affected division for a final decision.

(B) The decision of the Committee shall be either to approve the request, approve the request with conditions, deny the request, or table the request to obtain more information.

(7) Decision-making Criteria.

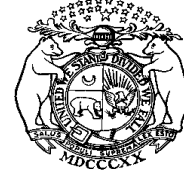
(A) The following criteria shall be considered when reviewing requests:

1. Is the exception needed?
2. Is the information complete?
3. Is there a potentially harmful situation?



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4. Would an exception violate the spirit of the rule?
5. Would an exception undermine the quality of service intended by the rule?
6. Is the request from a person authorized to make a request?
7. Would the exception violate state or federal law?
8. Is the exception in the best interest of consumer(s)?
9. Is the exception tailored to individual circumstances?
10. Would an exception be consistent with prior decisions of the Exceptions Committee?

(B) In addition to the criteria listed in (7)(A), if the request relates to persons who are disqualified from employment under 9 CSR 10-5.190, the committee shall consider whether a clear showing has been made that the person will not commit the following:

1. Any additional acts for which the person had originally been disqualified;
- or
2. Any other acts that would be harmful to a patient, resident, or client.

(C) In addition to the criteria listed in (7)(A) and (B), if the request relates to persons who are disqualified from employment under 9 CSR 10-5.200, the committee shall consider the following:

1. Would the disqualifying incident have been considered disqualifying under current practice.
2. If the incident had been prosecuted, would it have met the definition of any of those crimes that are not subject to exception under section 630.170 RSMo.

(8) Each decision of the committee shall be announced to the applicant by means of a letter. The letter shall include the following:

- (A) Reference the letter requesting the exception;
- (B) State whether or not the request was approved;
- (C) State any conditions or termination dates, if applicable;
- (D) Advise the applicant to keep the letter on file for review by DMH staff;
- (E) Indicate that an approval becomes effective on the date of the letter; and
- (F) Be made available to -
 1. The members of the exception committee;
 2. Department staff responsible for oversight of provider contracts; and
 3. The appropriate licensing and certification staff.

(9) Rescissions. Upon receipt of information that an exception should be rescinded, the committee shall pursue the following process:

- (A) Request an inquiry by licensure and certification or other DMH staff;
- (B) Review the finding of the inquiry; and
- (C) If the committee finds cause in the report to rescind the exception, a notice of rescission with an effective date shall be sent to the applicant by certified mail.

History: Original effective August 1, 2001. Amendment effective July 15, 2002. Amendment effective April 1, 2004. Amendment effective November 21, 2007.